



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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400 Seventh St., S.W.
Washington, D.C. 20590

Mr. Andrew N. Romach
Regulatory Manager
URS Corporation
1066 Perimeter Park Drive
Morrisville, NC 27560

Ref. No. 03-0257

Dear Mr. Romach:

This responds to your October 8, 2003 letter, requesting clarification on the materials of trade (MOTS) exception under § 173.6 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if this exception applies to your scenario which is paraphrased and answered as follows:

A manufacturer of heating, ventilation, and air conditioning (HVAC) equipment operates several supply houses (retail sale) where service technicians and other customers purchase parts to install, service, and maintain the manufacturer's equipment. Some of the available parts meet the definition of a hazardous material (e.g., lubricants, sealants, paints, refrigerants). The supply house outfits a van as a mobile HVAC shop with various spare parts, including hazardous materials. If a driver transports this mobile shop out to a construction site, making those HVAC parts available for sale to the HVAC technicians working at the site, would that truck and driver be able to take advantage of the MOTS exception?

The answer to your question is yes. The materials described in your scenario meet the definition for MOTS (§ 171.8). Provided all conditions in § 173.6 are met, the MOTS exception applies to the scenario you describe.

I hope this answers your inquiry.

Sincerely,

Susan Gorsky
Senior Transportation Regulations Specialist
Office of Hazardous Materials Standards



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§173.6
Material of Trade
03-0257

October 8, 2003

Mr. Ed Mazzullo, Director
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U.S. Department of Transportation
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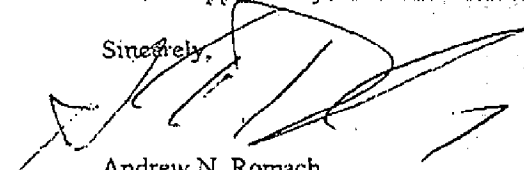
Dear Mr. Mazzullo:

I am writing to you to request a written regulatory interpretation concerning whether or not the Materials of Trade (MOTs) exception (49 CFR 173.6) would apply to the following scenario:

A manufacturer of heating, ventilation, and air conditioning (HVAC) equipment operates several supply houses (retail sale) where service technicians and other customers purchase parts to install, service, and maintain the manufacturer's equipment. Some of the available parts meet the definition of a hazardous material (for example, certain lubricants, sealants, paints, refrigerants). The supply house outfits a van as a mobile HVAC shop with various spare parts (including HAZMAT). If a driver transports this mobile shop out to a construction site, making those HVAC parts available for sale to the HVAC technicians working at the site, would that truck and driver be able to take advantage of the Materials of Trade exception? As required by the definition of *Material of Trade* in 49 CFR 171.8, this activity is being conducted "By a private motor carrier... in direct support of a principal business that is other than transportation by motor vehicle." The principal business, in this case, is selling HVAC parts.

I would appreciate your clarification of this question.

Sincerely,



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